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SPEECH

OF

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HON. ALEXANDER H. STEPHENS,

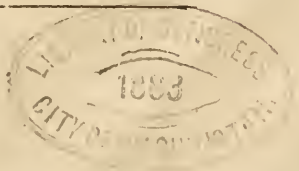
OF GEORGIA,

ON

THE PRESIDENTIAL ELECTION OF 1856; THE COMPROMISE
OF 1850; AND THE KANSAS-NEBRASKA ACT OF 1854.

1857
DELIVERED

IN THE HOUSE OF REPRESENTATIVES, JANUARY 6, 1857.



WASHINGTON:
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SPEECH.

The President's Annual Message being under consideration, on a motion to refer and print—

Mr. STEPHENS said:

Mr. SPEAKER: I have no desire to prolong this debate. If the House had not manifested so decided an indisposition to take a vote the other day, I should have remained silent. A discussion on the President's message, and the subjects embraced in it, on a motion to print and refer, such as this, commenced and continued as it has been, is unusual in this House. These topics are generally considered in Committee of the Whole after the message has been referred. But this discussion to me, thus far, has not been uninteresting, and to the country, I trust, it will not be unprofitable.

We have just passed an important crisis in our history—one of the most important, if not the most important, perhaps, in it. We are even now in the midst of events which will hereafter be marked as an epoch in the politics of the country. The issues in the late Presidential election brought into array two great parties, (I shall speak only of two, because the contest was mainly between them,) organized upon principles well defined, well ascertained, and directly antagonistical, hostile, and conflicting. Old parties were dismembered and broken up; and men who looked upon these principles thus put in issue as paramount to all others, took their position accordingly, without reference to past associations, formed upon issues no longer vital or living. The principles entering into the canvass were clearly and openly proclaimed, and the issues on them squarely met on both sides. These issues involved the harmony, if not the stability of the Republic. I do not augment its importance when I say that the result was a fearful one. It was so considered and felt from one extremity of the Union to the other. The conflict is now over. The issue, so far as the election was concerned, is now decided. The result is known. The immediate danger is past. The public mind, so lately wrought up to the highest degree of excitement, is quieting; and we may do well, now that

the campaign storm is over, and its perils surmounted, to recount some of the incidents, and as voyagers of another kind, take new reckonings for our future course. With these feelings I enter this debate.

And may I not pause here in the beginning to congratulate the House—congratulate the country, and to congratulate even you, Mr. Speaker, against your will, upon our safe deliverance? Am I not right in assuming that the news of the result of the late election, which we are considering, as it winged its flight through the land, made the great majority of the people throughout this vast Republic breathe freer, easier, and deeper, everywhere? To men of every class it brought joy and gladness. To the plowman, as he was treading his furrow—to the mechanic, as he plied himself to his daily toil—to the merchant at his counter—to the banker at his desk—to the mariner, as he breasted the surges of the sea, as well as to the statesman pondering over questions of deep interest to all. To men of every grade and occupation, including some even of those, I believe, who stood in opposition to those with whom I acted, all breathed freer and easier when the result was known. The whole country was relieved from an uncertain apprehension. Men felt relief. Trade felt it. Commerce felt it. Business in its every department—in its quickened energy and activity—in its various channels, felt it. And, sir, I can say for myself, I never addressed the House before upon any subject with greater personal gratification than I do at this time, in review of the questions which characterized the late contest, and the principles which I consider as having been sustained by the popular verdict rendered.

Sir, what are those questions and principles? Let us look at them, and examine them according to their intrinsic merits. Some gentlemen seem not to understand them; some seem to overlook them; some seem not to appreciate them, or to underrate them; while others still seem disposed to divert the mind from the great leading issues to minor points, and attempt to create the impres-

sion that the election turned upon the latter, and not the former, and that nothing of real and vital importance has been determined. The issues were dodged, say they, in some sections, and differently expounded in different sections. This is the case with the gentleman from Kentucky, [Mr. H. MARSHALL,] who so earnestly addressed the House a few days ago, and who I regret is not now in his seat. Hence his repeated sallies upon "squatter sovereignty," and the different opinions entertained by some persons at the North, as well as the South, touching the power of the Territorial Legislature of Kansas to exclude slavery.

Now, sir, I do not intend to follow those who either ignore, overlook, underrate, or endeavor to divert attention from the main and essential facts of the case. In what I have to say to-day I shall come directly to the subject. I maintain that two great principles have been sustained and vindicated in the late election, both embracing a policy vital to the harmony of the two great sections of the country, and essential to the preservation and continuance of the Union of these States.

These principles are: first, that there shall be no congressional prohibition of slavery in the common territory. This principle was openly, boldly, and universally advocated on the one side, and as fearlessly and fiercely denounced on the other. Besides this there was another principle, just as boldly and unequivocally maintained on one side, and as fiercely assailed, though not so openly denounced in convention, on the other; and that is, secondly, that new States arising and springing up in the common Territories may and shall be admitted as States into this Union either with or without African slavery, as the people therein may determine for themselves when they come to form their State constitution. These, sir, were the great and essential principles of the late contest. They were proclaimed at Cincinnati, on the one side, in the following words:

"Resolved, That claiming fellowship with, and desiring the cooperation of all who regard the preservation of the Union under the Constitution as the paramount issue, and repudiating all sectional parties and platforms concerning domestic slavery which seek to enbroil the States and incite to treason and armed resistance to law in the Territories, and whose avowed purposes, if consummated, must end in civil war and disunion, the American Democracy recognize and adopt the principles contained in the organic laws establishing the Territories of Kansas and Nebraska, as embodying the only sound and safe solution of the 'slavery question,' upon which the great national idea of the people of this whole country can repose in its determined conservatism of the Union—non-intervention by Congress with slavery in State and Territory, or in the District of Columbia.

"2. That this was the basis of the compromises of 1850, confirmed by both the Democratic and Whig parties in national conventions, ratified by the people in the election of 1852, and rightly applied to the organization of Territories in 1854.

"3. That by the uniform application of this Democratic principle to the organization of Territories, and to the admission of new States, with or without domestic slavery as they may elect, the equal rights of all the States will be preserved intact, the original compact of the Constitution maintained inviolate, and the perpetuity and expansion of this Union insured to its utmost capacity of embracing in peace and harmony every future American State that may be constituted or annexed with a republican form of government."

"Resolved, That we recognize the right of the people of

all the Territories, including Kansas and Nebraska, acting through the legally and fairly expressed will of a majority of actual residents, and whenever the number of their inhabitants justifies it, to form a Constitution with or without domestic slavery, and be admitted into the Union upon terms of perfect equality with other States."

These principles involving the constitutional rights of nearly one half the States of this Union, and the equality of the States themselves, and without which the Union of the States cannot and ought not to be maintained, so clearly and distinctly set forth, and inscribed upon the banners of one party, were just as distinctly controverted and assailed by their opponents in the canvass; for though the platform put forth by the other great party to which I allude, in its organization at Philadelphia, says nothing about the admission of a slave State, yet their policy leads to the same result as if the denial had been openly proclaimed. Their principles were announced in the following words:

"That the Constitution confers upon Congress sovereign power over the Territories of the United States for their government, and that, in the exercise of this power, it is both the right and the duty of Congress to prohibit in the Territories those twin relics of barbarism—polygamy and slavery."

Thus, sir, was the issue distinctly made and joined. The friends of the Union under the Constitution on the one side rallied against the enemies of both, as I conceive, arrayed on the other. There was no dodging or evasion anywhere, on the part of those at least who maintained the constitutional right. The contest was fierce. The issue, so long as the result was doubtful, was well calculated to awaken fearful apprehensions. The battle was gallantly fought—the victory nobly won. Sectionalism has been signally rebuked and constitutionalism gloriously triumphant. Nor am I disposed to consider the victory thus achieved as a barren triumph only. It must and will tend to settle, if it has not permanently settled, questions of the gravest import and highest importance. It has effectually reaffirmed upon a rehearing the principles established in 1850. That is a great point gained. The principle then adopted in our territorial policy was that there should be no congressional restriction against slavery in the Territories.

The Wilmot proviso was put down and abandoned; and the people settling and colonizing the public domain from all the States alike, without hindrance, limitation, or control by Congress, were left to form and mold their institutions without any restrictions except those imposed by the Constitution of the United States, with the right guaranteed of being admitted into the Union either with or without slavery, as they might determine for themselves. This policy, adopted in 1850, being the basis of what is known as the compromise measures of that year, has, I say, been reaffirmed. It was thought by many, on the adoption of this policy in 1850, that agitation upon the subject of slavery would cease, so far as the Territories were concerned, at least. But subsequent events have shown that the snake was "scotched" only, not "killed;" and it may be now that it is only scotched again, and not yet killed. How this will be time must determine; but, judging from the

past, we have reason to hope. The principles entering into the contest between Mr. Jefferson and the elder Adams were not more clearly marked out, and squarely met on both sides, than they have been in this; nor were they, in my judgment, more essential to the preservation of the liberties of this country, upon constitutional principles, than the questions just decided; and hereafter, sir, in the distant future, if that bright future awaits us which I can but hope does, 1856 will be looked back to and dated from, just as 1801 has been in our past history.

I stood by the policy adopted in 1850, and now I trust firmly established, not because I thought it gave the people of the South the full measure of their just rights, but for reasons and considerations which I need not now enumerate—for the same reasons I stood by it in 1854, when it was carried out in the Kansas-Nebraska bill; and for the same reasons, with a renewed steadfastness of purpose, I stood by it in its greatest peril in 1856.

Much, sir, has been said about the Kansas bill in this debate. Much was said about it in the late canvass. It was the leading topic everywhere, and its principles were made the turning point everywhere; indeed, the issue—the great issue in the contest, was made with the direct view of having its principles and policy approved and indorsed or rejected and repudiated by the people. It is because this measure, so directly in issue, has been so triumphantly sustained, that I so much rejoice in the result. No man can say that this issue was dodged. It was presented by its friends in the organization of this House at the beginning of the last session. It was the basis of the organization at Cincinnati, and formed one of the most prominent features in the programme of principles there announced. And while it was not named in so many words in the Philadelphia programme, yet all know that the party there assembled was organized mainly in opposition to that measure and the principles upon which it was based. In the newspapers, and on the hustings, nothing was railed against so bitterly and unceasingly as the “iniquity,” “the cheat,” and “the infamy,” of the Kansas bill. This measure, therefore, may be considered as one of the things most emphatically indorsed by the people in the late election.

I am the more rejoiced at this, because I know something of the difficulties attending its passage—the violence, the passion, and fanaticism evoked against it. I well remember the opinions then given—that the North never would submit to it; and that the seats then filled by those who voted for it from that section would never again be filled by men of like sentiments. By indignant constituencies, such members were to be driven forever from the public councils: Forty-four members from the North in this House voted for the bill, only one of whom, I believe, acted with its enemies in the late struggle for its maintenance. To the present House, owing chiefly to causes I need not mention, only eighteen were returned from that section in favor of it. This was matter of great boast at the time. But, sir, to the next House we have forty-nine members already chosen

from the North at the late elections, upon the distinct issue of their advocacy of this bill. This is five more than the number originally for it; the cause grows stronger instead of weaker. This is one of the results of the late election particularly gratifying to me in itself. It shows what men of nerve, with fidelity to the Constitution, relying upon the virtue, intelligence, loyalty, and patriotism of the people, can effect. Language would fail me in an attempt to characterize as they deserve those sterling and noble spirits who bore the constitutional flag in the North against the popular prejudice and fanaticism of the people of their own section, in this contest.

Sir, it is an easy thing for a man to drift along with the popular current. Any man can do that. Honors thus obtained are as worthless as they are cheap; but it requires nerve—it requires all the elements that make a man, to stand up and oppose men in their errors, and advocate truth before a people unwilling to hear and to receive it—to speak to those who “having ears hear not, and having eyes see not.” History furnishes some examples of this sort; but the history of the world, in my judgment, has never furnished nobler and grander specimens of this virtue than the late canvass in the North. When a man discharges his duty upon any occasion, he deserves respect and admiration; but when a man discharges his duty against the prevailing prejudices of those around him, and even against his own natural feelings and inclinations, that man commands something higher than respect and admiration. The elder Brutus, who sat in judgment and pronounced sentence against his own son, silencing the adverse promptings of a father’s heart, made himself the “noblest Roman of them all;” and those statesmen at the North to whom I allude, who had the nerve, in the crisis just passed, to stand up and vindicate the right, under the circumstances in which they were placed, give to the world an instance of the moral sublime in human action never surpassed before. Our history furnishes no parallel with it. They bore the brunt of the fight. To them the preservation of the Republic is due; and if our Republic proves not to be ungrateful, they will receive patriots’ rewards—more to be desired than monuments of brass or marble—honored names while living, and honored memories when dead.

But eulogy is not my object at this time. I have to speak of principles on this occasion—not men; and I intend to speak particularly of the principles of the Kansas bill. This I do, because many affect not to understand them, and some say that different constructions are put upon them by different people. This, sir, is the case with almost every act of legislation. The Constitution itself is not free from the charge of admitting different constructions; but whatever difference in construction may exist in reference to the Kansas bill, this difference arises not so much from the words of the bill as from the Constitution. The gentleman from Kentucky to whom I alluded [Mr. H. MARSHALL] said he would have voted for it with one construction, and against it with another. That the bill and its principles, with whatever construction, has been sustained

by the elections, he and all must admit. The question of repeal has been put to rest.

Now, then, as to the nature, character, objects, effects, and principles of the bill. What does it do, and what was it intended to accomplish? On this point I affirm and maintain that it did but carry out in good faith the principles and policy of the territorial acts of 1850, upon the subject of slavery—the New Mexico and Utah bills for which that gentleman voted, and for the maintenance of which both he and I were pledged, and for the maintenance of which both the old Whig and Democratic parties were most solemnly pledged. The gentleman admits that he stood pledged to carry out the principles of the New Mexico and Utah bills upon the subject of slavery. This is what I maintain the Kansas bill did, and that it is subject legitimately to the same construction upon the subject of slavery as those bills are, and none other. I have the bills all before me. Let us then compare them in all the essential particulars, so far as the vexed question of slavery is concerned.

But before doing so, let me premise by restating, what all must admit, that the basis of the policy adopted in 1850 was the abandonment of the "Wilmot proviso"—another name for congressional restriction, and the establishment of the principle of "non-intervention" by Congress, either for or against slavery in the Territories. The object was to stay the aggressive hand of this Government, and to quiet sectional agitation, by removing this cause of excitement from the halls of Congress, and leaving the question, as to their domestic institutions, to be settled by the people to be affected by them at the proper time, and in the proper manner, under the Constitution of the United States; and that it should be no objection to the admission of any new State into this Union, because of its constitution recognizing or tolerating slavery. The principle of a division of the Territory proposed in 1820, having been repudiated by the North, a return to original principles was found to be the only safe solution of the question. With this view and object the New Mexico bill contains these clauses:

"Sec. 2. *And be it further enacted*, That all that portion of the territory of the United States bounded as follows," &c., &c., &c., "be, and the same is hereby, erected into a temporary government, by the name of the Territory of New Mexico: *Provided*," &c., &c.: "*And provided further*, That when admitted as a State, the said Territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of admission."

"Sec. 7. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States and the provisions of this act."

"Sec. 17. *And be it further enacted*, That the Constitution and laws of the United States which are not locally inapplicable shall have the same force and effect within the said Territory of New Mexico as elsewhere within the United States."

These are all the essential clauses in the New Mexico bill upon the subject. Those in the Utah bill I need not read; for if not identical in words, they are in substance. I will now read the provisions of the Kansas bill on the same subject:

"Sec. 19. *And be it further enacted*, That all that part of the territory of the United States included within the fol-

lowing limits," &c., &c., "be, and the same is hereby, created into a temporary government, by the name of the Territory of Kansas; and when admitted as a State, or States, the said Territory, or any portion of the same, shall be received into the Union, with or without slavery, as their constitution may prescribe at the time of their admission."

"Sec. 24. *And be it further enacted*, That the legislative power of the Territory shall extend to all rightful subjects of legislation consistent with the Constitution of the United States, and the provisions of this act."

"Sec. 32. *And be it further enacted*," * * * "that the Constitution and all laws of the United States which are not locally inapplicable, shall have the same force and effect within the said Territory of Kansas as elsewhere within the United States, except the eighth section of the act preparatory to the admission of Missouri into the Union, approved March 6, 1820, which being inconsistent with the principle of non-intervention by Congress with slavery in the States and Territories, as recognized by the legislation of 1850, commonly called the compromise measures, is hereby declared inoperative and void; it being the true intent and meaning of this act, not to legislate slavery into any Territory or State, nor to exclude it therefrom, but to leave the people thereof perfectly free to form and regulate their domestic institutions in their own way, subject only to the Constitution of the United States: *Provided*, That nothing herein contained shall be construed to revive or put in force any law or regulation which may have existed prior to the act of 6th of March, 1820, either protecting, establishing, prohibiting, or abolishing slavery."

From this *exposé* it will be seen how clearly the policy, marked out in the New Mexico and Utah bills in 1850, was followed in the Kansas and Nebraska bill in 1854. The clauses in that portion of the bill relating to Nebraska are identical in substance with those I have read concerning Kansas. The second section of the New Mexico bill is identical in substance with the nineteenth section of the Kansas bill. The seventh section of the New Mexico bill, which confers power—and all the power possessed by the Territorial Legislature under that bill—is identical in substance with the twenty-fourth section of the Kansas bill, conferring like powers upon the Territorial Legislature there. In both the power is granted to legislate upon all rightful subjects of legislation consistent with the Constitution of the United States, and the provisions of the organic act. All the powers the Legislature of New Mexico holds, it possesses by virtue of the grant in the seventh section; and all the powers the Legislature of Kansas holds, is by virtue of a similar grant in the twenty-fourth section of the Kansas bill. If the Territorial Legislature, in the one case, can rightfully exclude slavery, then it can in the other; and if it cannot in New Mexico, then it cannot in Kansas; for the thirty-second section of the Kansas bill, about which so much has been said, on account of its repeal of the Missouri restriction, and its "squatter sovereignty" construction, confers no additional grant of power. This is so clear that argument to elucidate it is unnecessary. Then, why was it inserted? some have asked. This, it is said, is what has given rise to all the agitation. This, it is said, is what kindled anew the sectional strife, settled and quieted in 1850. This is what has been called the mischievous work of designing demagogues to promote their selfish purposes and objects. This is what a gentleman from Ohio [Mr. SHERMAN] said the other day was the "indignity" offered to the North, which conservative men of that section, who stood upon the settlement of 1850, could not brook; and which

gave rise to that sectional, anti-slavery, and abolition organization, which has lately been so signally rebuked. Not so, Mr. Speaker. It may be that it was the occasion, but it was not the cause, of this agitation. That sprung from the till living anti-slavery opposition to the territorial policy adopted in 1850; for before these words in relation to the Missouri restriction were in the bill the agitation was commenced.

These words, it will be remembered, were not in the original bill as it was reported to the Senate; they were put in afterwards by way of amendment; and before the amendment was offered, and while the bill stood almost identically in words, certainly so in substance, with the New Mexico and Utah bills, so far as slavery is concerned, abolition denunciations against its provisions were commenced. The blood-hounds of fanaticism were already unleashed, and were heard in full cry on the track of those whose only and sole object was in good faith to carry out the territorial policy of 1850. This I say in vindication of the truth of history, as well as in defense of those whose motives, conduct, and patriotism have been so bitterly assailed by the Abolition leaders at the North, who were no less hostile to the New Mexico and Utah bills of 1850, than they were to the Kansas bill of 1854, and who denounced, abused, vilified, and aspersed the characters of those who advocated and defended the measures of 1850, as rancorously as they did those who voted for and sustained this particular clause of the Kansas bill in 1854.

Why then, sir, were these words put in the thirty-second section of the bill? I will tell you. They were *necessary and essential* to carry out the policy of 1850. That had to be done in good faith, in spite of clamor, coming from whatever quarter it might. In the seventeenth section of the New Mexico bill, the Constitution and laws of the United States *not locally inapplicable*, were extended to that Territory. By the thirty-second section of the Kansas bill, the Constitution and laws of the United States *not locally inapplicable*, were, in the same way, extended to that Territory. But in doing this it became absolutely necessary to *except the eighth section of the act of 1820*. That section was a *prohibition of slavery by Congress in the Territory*. It was the "Wilmot proviso" in effect. It was *locally applicable to Kansas and Nebraska*, for they were part of the Louisiana purchase to which that prohibition of slavery north of 36° 30' applied. Hence, if all the laws of the United States, *not locally inapplicable*, had been extended to these Territories, it would have been a reenactment or reaffirmance of congressional restriction, an abandonment of which was the basis of the territorial legislation of 1850. There was no such anterior law of the United States applicable to New Mexico and Utah, requiring an exception in those bills. The exception, therefore, in the Kansas bill, became absolutely necessary to maintain the same policy. The words used were the proper ones for the occasion. They are, "except the eighth section of the act," &c., "which being inconsistent with the principle of non-intervention by Congress," &c., "as recognized by the legis-

lation of 1850, commonly called the compromise measures, is hereby declared *inoperative and void*." The words that follow this exception are but explanatory of the effect of the exception itself, which was to leave the question of slavery in the Territories to the people, to manage, control, and settle for themselves, subject to no restrictions but that of the Constitution of the United States. It removed the subject of slavery from the action of this Government, and left it where the bills of 1850 left it. This was the object, and this is the effect of the words. They give no additional power to the Territorial Legislature. This bill, therefore, does nothing but carry out the policy of 1850. And how any man who is in favor of the acts of 1850 can complain of, or be opposed to, the act of 1854, I cannot conceive. The Democratic party, as I have said, pledged themselves in 1852 to the maintenance of those acts. I have the resolutions of their convention before me. The Whig party, at Baltimore, did the same thing. They planted themselves upon the territorial policy of 1850, as "*a final settlement, in principle and in substance, of the subjects*" to which the acts related; holding this policy to be "*essential to the nationality of the Whig party, and the integrity of the Union*," and they pledged themselves "*to discountenance all attempts to continue or renew such agitation*,"—that is, slavery agitation on the territorial policy adopted in those bills—"whenever, wherever, or however made."

Now, sir, was a redemption of this pledge, to abide by the settlement "*in principle and substance*," a renewal of the agitation? Was its redemption its own violation? Was the pledge intended to be redeemed, or was it but a mockery? And here permit me to say, I do not treat this subject as a partisan. My object is not to build up one party, or to put down another, merely for party's sake. There are objects with me, I trust, higher and worthier, and more permanent, than the building up of any organization in the country barely to hold office, or to "share the spoils," as they are termed. Parties I have little regard for, except so far as they, in my judgment, subserve, secure, and promote the best interests of the country. But what avail was the settlement of 1850, as a *final* one, and the principles then established, if they were not to be carried out in future legislation? Sir, consistency, to say nothing of duty and patriotism, required it to be done. This is what was done; and this is what the late popular verdict requires shall be done in all future territorial bills. And if the gentleman from Kentucky, in fancy or otherwise, sees "squatter sovereignty," as he calls it, or the "power" of the Territorial Legislature to exclude slavery (as he defines that term to mean) in the Kansas bill, then he must see the same power and the same "squatter sovereignty" in the New Mexico and Utah bills, for which he voted, and which he still approves. If it is in the one, it is in the others. But he admits that, by his own construction, the Kansas bill does not contain it. It is only to be found, according to his opinion, in the construction of others. Well, whatever construction can be put upon the Kansas bill in this particu-

lar, may be put upon the New Mexico and Utah bills; and the same men who do put this construction upon it put the same upon the others also. The gentleman, I imagine, cannot point to a single man in Congress, or out of Congress, who applies it to the one and not to the others. The doctrines they now hold in reference to the Kansas bill they held in 1850, and still hold in reference to the others. Their construction did not drive or prevent the gentleman from Kentucky [Mr. H. MARSHALL] then from voting for and sustaining those measures; nor will it drive or prevent me now from sustaining and defending this one. In addition to this I may say, that most of those who hold the doctrine that the Territorial Legislatures can exclude slavery, do not derive the power to do so from the territorial bills at all; but they maintain it as an inherent, independent, and sovereign right of the people, not derived in any way from Congress. This is the essence of the doctrine of "squatter sovereignty," about which we have heard so much lately, and about which gentlemen seem to have such indistinct ideas.

The true import of this word can be best understood by recurring to its origin. It sprang from the idea advanced by some, that the people of a Territory were endowed with sovereign powers, inherently and independently of any action of Congress. This, it was said, would be recognizing sovereignty in the intruders and squatters upon the public domain. Hence, the doctrine was dubbed "squatter sovereignty." No such doctrine is to be found either in the Kansas, Utah, or New Mexico bills. All the powers they can exercise they derive directly from this Government, in their organic acts. All their machinery of government proceeds from us. They hold it by grant, and not by sovereign right. They hold from us, and through us, and not independently of us. Their temporary governments were created or erected by us. Their legislative powers are exercised by permission—"ex gratia," not "*ex debito justitiæ*." All the rights and powers of government possessed by Congress over the Territories are granted to the people there—conferred upon them in the bills organizing their territorial government, and all the governmental power over them was thus granted; but the power to restrain, restrict, or prohibit slavery, or to prevent the immigration and diffusion of any class of American population, is not, in my judgment, amongst those thus granted, for Congress does not possess this power to grant it.

This, sir, is a Government of limited powers. All the powers it can rightfully exercise or confer, are such as are expressly delegated in the Constitution, and such as may be necessary to carry out those which are expressly named. The power to govern the Territories, or to provide governments for them, is itself not one of those expressly granted. It is but an incident merely to some of the expressly granted powers, and cannot go beyond the necessities attending the execution of the express powers in carrying out the specified objects for which they were granted. The exclusion or restraining of slavery in the Territories, or the permission of the immigration of one

class to the exclusion of another, whether white or black, bond or free, was not amongst any of those objects, and is not a necessary incident in carrying any of them out. Nor is the exclusion of slavery included amongst the "rightful subjects" of legislation granted to the Territories, while the right to legislate on the subject may be; for the right to exclude is not embraced in the power to legislate upon the subject. To protect property is the duty of Government, and the power to do this does not include the power or right to destroy it; and to protect it may be a rightful subject of legislation, consistent with the Constitution of the United States, but not to destroy it. The people in the Territories have this right or power to regulate and protect, but not the other; for Congress, under the limitations of the Constitution, did not have that to give them. There is no such thing as sovereignty—absolute political sovereignty I mean—in the people of the Territories, either by inherent right or by grant from Congress. There is no such sovereignty over the Territories even in Congress, or all the departments of the General Government combined. This resides in the people of the separate States, as part of that residuum of powers not delegated by them in the Constitution, and which in that instrument are expressly reserved "to the States respectively or the people;" and passes out of them only in the mode provided for in the Constitution, which is on the admission of new States. The public domain belongs to the people of all the States, as common property; and so long as it is under territorial government, should be subject only to such "needful rules and regulations," in its disposition, as may be necessary for its free and equal use and enjoyment by all alike, and for its colonization and settlement by all alike, without any unjust discrimination against any, either by Congress or any territorial government they may institute, until the number of inhabitants may justify their admission into the Union as a State; and then, by the express terms of the Constitution, they may be admitted, with as absolute sovereignty within their jurisdiction, as the other members of the Confederacy. Then, and in this way, the otherwise undelegated sovereignty of the whole people of the States respectively passes from them into the new State, upon her recognition and admission as a coequal in the Union.

But I am asked: "Is not the Government of the United States sovereign?" and "whether it is not the representative of the sovereignty of the people of the United States over the Territories?" In reply, I state, that the Government of the United States, in my judgment, is clothed with certain sovereign powers; but these powers are limited to specified objects. In the legitimate and proper exercise of these powers, to the extent of their grant, it may be considered as sovereign or supreme as any other Government, just as sovereign as the Autocrat of Russia, in whom is concentrated all power; but these powers with which it is clothed, extend only to such subjects as are covered by the grant delegating them. Over all others, it has no power or authority to

act at all. So far from being sovereign as to these, it is perfectly impotent. It cannot rightfully exercise any authority whatever upon any matter not committed to its charge by grant from the people of the States respectively; and it can wield the sovereign powers of the people thus delegated to it only over such subjects, and to accomplish such objects, as the people have authorized it to exercise authority upon. To this extent it is the representative, or rather the active and living embodiment of the sovereignty of the people. It is, in other words, the organ, or constitutes the channels through which their sovereignty acts on the subjects specified in the grant of its powers. But the appropriation of the public domain to one class of citizens, to the exclusion of another, is not to be found in the scope of these powers, or the objects for which they were conferred.

And as to its being the representative of the sovereignty of the people, in connection with the subject under consideration, I have but a word further in reply. Let me illustrate. The corporate authorities of any town or city are the representatives, to a certain extent, of those who belong to the municipality. They are the representatives to the extent of the powers conferred on them by their charter. Now, suppose adjacent lands should become in any way the property of the corporation—the common property of all—in which every one in the town or city had an equal interest; and suppose that the charter (whence the authorities derive all their powers) conferred upon them no power to dispose of this common property, except to make “needful rules and regulations” concerning it, for the equal benefit of all: would any man maintain that the authorities in this case could appropriate the whole of it to one class of the citizens to the exclusion of another? or that they could empower any portion of the tenants in common getting upon it to exclude others? I use this illustration barely to show the character in which the General Government may be considered a representative of the sovereignty of the people of the United States over the common Territories. And for this purpose the analogy is good. The General Government holds the common property in the Territories as a trustee. The people of all the States are the “*cœstui que trust*,” and no act of the trustee, or those acting under the authority of the trustee, can rightfully exclude any, so long as the paramount authority, or absolute political sovereignty over the Territory, is in abeyance.

But why pursue an argument to prove that the construction by some upon the Kansas bill, to which the gentleman from Kentucky [Mr. H. MARSHALL] alluded, is wrong, and not legitimate? He admits it himself. But he said that, with the “squatter sovereignty” construction, or that which authorizes the Territorial Legislature to exclude slavery, the Kansas bill is no better to the South, practically, than the old Missouri restriction which it took off; and with this construction he would not, for all practical purposes, so far as the rights of the South are concerned, give “the toss of a copper” between it and the positive congressional exclusion aimed at by those

calling themselves Republicans. In this, sir, I am far from agreeing with him; for even with this construction—erroneous as I have shown it to be—the South has an equal chance, but before they had none; and under anti-slavery rule, such as that party would subject us to, we would have none.

But the practical point, looking to the probable prospect of any of these Territories becoming slave States, dwindles into perfect insignificance in view of the principle involved. That principle is one of constitutional right and equality. Its surrender carries with it submission to unjust and unconstitutional legislation, the sole object of which would be to array this Government, which claims our allegiance, in direct hostility, not only to our interests, but the very frame work of our political organizations. Who looked to the practical importance of the “Wilmot proviso” to the South in 1850, when it was attempted to be fixed upon New Mexico and Utah, with half so much interest as they did to the principle upon which it was founded? It was the principle that was so unyieldingly resisted then. It was this principle, or the threatened action of Congress based upon it, which the whole South, with a voice almost unanimous, including the gentleman himself, then said “*They would not and ought not to submit to!*” Principles, sir, are not only outposts, but the bulwarks of all constitutional liberty; and, if these be yielded, or taken by superior force, the citadel will soon follow. A people who would maintain their rights must look to principles much more than to practical results. The independence of the United States was declared and established in the vindication of an abstract principle. Mr. Webster never uttered a great truth in simpler language—for which he was so much distinguished—than when he said, “The American Revolution was fought on a preamble.” It was not the amount of the tax on tea, but the assertion (in the preamble of the bill taking off the tax) of the right in the British Parliament to tax the Colonies, without representation, that our fathers resisted; and it was the principle of unjust and unconstitutional congressional action against the institutions of all the southern States of this Union, that we, in 1850, resisted by our votes, and would have resisted by our arms if the wrong had been perpetrated. Those from the South who supported the New Mexico and Utah bills, did so because this principle of congressional restriction was abandoned in them. It was not from any confidence, in a practical point of view, that these Territories ever would be slave States. The great constitutional and essential right to be so if they chose was secured to them. That was the main point. This, at least, was the case with myself; for, when I looked out upon our vast Territories of the West and Northwest, I did not then, nor do I now, consider that there was or is much prospect of many of them, particularly the latter, becoming slave States. Besides the laws of climate, soil, and productions, there is another law not unobserved by me, which seemed to be quite as efficient in its prospective operations in giving a different character to their institutions, and that is the law of population. There were,

at the last census, near twenty millions of whites in the United States, and only a fraction over three millions of blacks, or slaves. The stock from which the population of the latter class must spring, is too small to keep pace in diffusion, expansion, and settlement with the former. The ratio is not much greater than one to seven, to say nothing of foreign immigration, and the known facts in relation to the tardiness with which slave population is pushed into new countries and frontier settlements. Hence the greater importance to the South of a rigid adherence to principles on this subject vital to them. If the slightest encroachments of power are permitted or submitted to in the Territories, they may reach the States ultimately. And although I looked, and still look, upon the probabilities of Kansas being a slave State, as greater than I did New Mexico and Utah, yet I voted for the bill of 1854, with the view of maintaining the principle much more than I did to such practical results. As a southern man, considering the relation which the African bears to the white race in the southern States, as the very best condition for the greatest good of both; and as a national man, looking to the best interests of the country, the peace and harmony of the whole by a preservation of the balance of power, as far as can be (for after all, the surest check to encroachments is the inability to make them,) I should prefer to see Kansas come into the Union as a slave state; but it was not with the view or purpose of effecting that result that I voted for the Kansas bill, any more than it was with the view or purpose of accomplishing similar results as to New Mexico and Utah that I supported the measures of 1850. It was to secure the right to come in as a slave State, if the people there so wished, and to maintain a principle, which I then thought, and still think, essential to the peace of the country and the ultimate security of the rights of the South.

But it has been said, if this was the principle aimed at in the repeal of the Missouri restriction, why was it not extended to Minnesota and other Territories over which that restriction extended? Why was it taken off Kansas and Nebraska and not Minnesota? All I have to say in reply to this is, that the bill of 1854 did take it off wherever the bill of 1820 put it on. The thirty-second section of the Kansas bill, which I have read, for the reasons therein stated, declares the eighth section of the act of 1820 to be inoperative and void; and wherever that eighth section extended, this "inoperative and void" is written upon it. Wherever it received acknowledgment before, it received its death-blow, if you please, by this thirty-second section; and if it extended over Minnesota, it was repealed there as fully and completely as it was over Kansas.

Mr. CAMPBELL, of Ohio. I perhaps misunderstood the gentleman, and I desire to make an inquiry for information. Do I understand the gentleman from Georgia to take the ground that the Kansas-Nebraska act removes the restriction against slavery over Minnesota, and the other Territories belonging to the General Government?

Mr. STEPHENS. I said that that restriction

was declared null and void wherever it extended. That is the effect of the language of the act.

Mr. CAMPBELL, of Ohio. Then I would ask him whether he understands that that repealing clause extends beyond the territorial limits of Kansas and Nebraska?

Mr. STEPHENS. I understand it to be a declaration, that the restriction of 1820, being inconsistent with the principle established in 1850, is null and void. It is not confined to one place more than to another. I understand it rather to be declaratory than otherwise. I understand it as being put in there to prevent a contrary construction.

Mr. CAMPBELL, of Ohio. I want to know the gentleman's own opinion as to its legal effect on other Territories.

Mr. STEPHENS. My opinion is that it had no legal effect at all. [Laughter.] I am inclined to think that, on a strict construction of the Constitution, the restriction was null and void from the beginning.

Mr. CAMPBELL, of Ohio. I ask the gentleman whether he has not recently changed his opinion?

Mr. STEPHENS. Never on this subject.

Mr. CAMPBELL, of Ohio. I understood the gentleman, in a debate not very long since, to have avowed a different opinion.

Mr. STEPHENS. If the gentleman will turn to the report of that debate, he will see what I then said to him on this point.

Mr. CAMPBELL, of Ohio. I recollect it very well. The first question which I put, the gentleman declined to answer; but as I understood in that debate to which he has referred — I may be mistaken, but the record can be easily produced — while he declined to give an opinion on the question of power, he took the ground that the exercise of it would be such an act of usurpation as would justify his section of the country in a dissolution of the Union.

Mr. STEPHENS. The gentleman might have understood me to say that, on the principle of a just division, under that clause of the Constitution which empowers Congress to make "needful rules and regulations," Congress might, for the sake of peace and harmony, make a fair division of the common lands as property; but when the principle of division was set aside, then the attempt to make it was null and void; and that any act of Congress appropriating the whole of the common property in the Territories to one class, to the exclusion of another, would be an abuse of a power tantamount to a usurpation, which would justify resistance.

Mr. CAMPBELL, of Ohio. I should be very happy to have the gentleman explain that principle of division.

Mr. STEPHENS. I am discussing another principle now. For my views on that point I refer him to the former debate. I am not surprised that the gentleman should wish to divert attention, or should take very little interest in this debate, on the line I was pursuing, for I think it was he who, at the beginning of the last session of the last Congress, spoke with such exulting feelings of what the Kansas-Nebraska bill had done with

its advocates at the North, and made such great boasts of the ultimate triumph of the enemies of the principles of that bill. Now he comes into the House at this session, after the issue has been made and decided against him, and commences the debate himself; but when he sees he can make nothing out of it when confined to the merits of the question raised by himself, he is for going off on something else. Why, sir, he said two years ago (while admitting that he was no prophet, nor the son of a prophet, yet seeming to be moved by the inspiration of prophesy) that there never would be another Kansas majority on this floor. He and his friends appealed to the people. Well, the people have decided against them. And now he comes to this House and reopens the question, and I am not surprised, as the debate progresses, he should desire to get on other points. I think the position of the gentleman, in reopening a debate on the Kansas question this session, upon the whole, is very much like that of a man I once heard of—a lawyer in court. After the decision of the judge, he commenced speaking again; the judge told him he did not allow any arguing of a question in his court after a case was decided. The lawyer said, "Sir, I was not arguing the case; I was only cursing the decision," [laughter.] I think the object of the gentleman [Mr. CAMPBELL] now, in reopening this debate, was not a wish to reargue the question, so much as to indulge in a little cursing of the decision which has been against him.

Mr. CAMPBELL, of Ohio. I suppose that in that case, as in this, there had been false testimony. One set of witnesses came and swore on one side of the line that the Kansas-Nebraska bill meant nothing; and another swore on another side that it meant something; and but for them I should have returned here with the same exultant feelings with which I came at the opening of this Congress.

Mr. STEPHENS. I believe, Mr. Speaker, that the gentleman himself was one of the witnesses, [laughter,] and it seems that the people of his own section decided against the testimony. [Laughter.]

Now, Mr. Speaker, as I said before, my opinion is, that there never was an issue so fairly made and so fairly presented to the American people by both parties, North and South, as was the issue on this Kansas bill at the late election—an election which excited the feelings and aroused the popular interests to an unusual degree, not only in this country, but in countries on other continents. I think it probable that there were some on both sides of the question and on both sides of Mason and Dixon's line who attempted to misrepresent the principles of this Kansas-Nebraska bill. It is possible that there were some of those defending it on one side of the line who said that the policy was to make Kansas a free State, and some of those assailing it on the other side who said that it was worse for the South than the "Wilnot proviso itself." This is possible, but those who made such attempts were well understood. They deceived nobody. Such men figure in all political contests, but they mislead very few: the truth makes its way over them.

But I suspect that most of what has been called dodging the issues in the late canvass, has been only a denying that the issues were such as they were represented to be by some of the opposite party. It is very possible that the gentleman from Ohio, [Mr. CAMPBELL,] or some of those who acted with him at the North, said in their speeches about the Kansas bill, that its object was to make Kansas a slave State; and that one of the issues before the American people was, whether Kansas should be a slave State, or a free State. The friends of freedom, or every man who was not himself in favor of slavery, it may be, was called on to vote for the "Free-Soil," "free Kansas," and Frémont ticket. If this be so, I think it very possible, and even highly probable, that the friends and defenders of the Kansas bill at the North, said this was not the issue—that the object of the bill was not to make Kansas either a free State, or a slave State, but to leave that matter to the people of Kansas to settle for themselves, at the proper time, under the Constitution of the United States; and that she might be admitted as a slave State, or a free State, as her people may determine for themselves at the proper time. Some may have said the proper time was in their Territorial Legislature; others, when they come to form a State constitution; but all were agreed that it was to be done by the people of Kansas, at the proper time; and if there was any difficulty as to the proper time, that was a judicial question arising under the Constitution, which could only be settled by the courts. All were agreed that it was to be settled by those whom it concerned, and not by Congress, or the people of the United States outside of Kansas, who had no business to meddle with it.

This class of men, I think it probable, said that the true issue on this point was to let the people of Kansas take care of their own interests and business, and to let other people attend to theirs; that whether slavery was right or wrong, Congress had no rightful authority to interfere against it, either in the States or Territories. This, I think it very probable, was said by many. This is what has been called dodging the issue. But I should have said the same thing if I had been there. The object of the bill was not to make Kansas either a slave State or free State; but just what I have stated. Its passage was not a triumph of the South over the North, further than a removal of an unjust discrimination against her people, and a restoration of her constitutional equality, may be considered a triumph. To this extent it was a triumph; but no sectional triumph. It was a triumph of the Constitution. It was a triumph that enhanced the value of the Union in the estimation of the people of the South. The restriction of 1820 had been for many years in the body-politic as "a thorn in the flesh," producing irritation at every touch. On the principles upon which it was adopted, (reluctantly accepted as an alternative at the time by them,) the South would have been, and was, willing to acquiesce in and adhere to it in 1850. But it was then repudiated, again and again, by the North, as was shown by me in this House on a former occasion. The idea of its having been a sacred

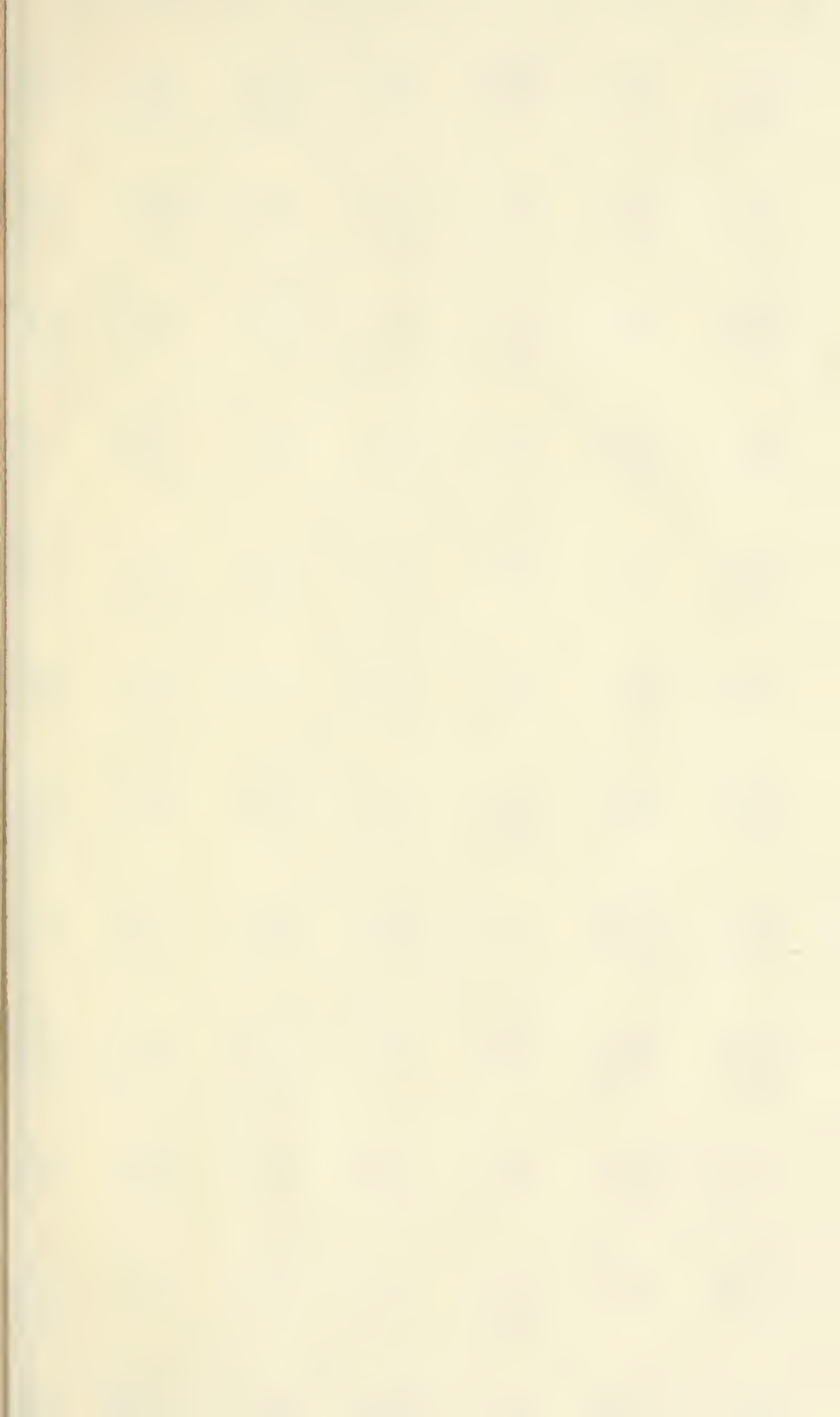
compact, or being in any way binding, was scouted at and ridiculed by those who have raised such a clamor on that score since. This thorn was removed in 1850. The whole country seemed to be relieved by it. It would have been completely relieved by it, but for the late attempt to thrust back this thorn. This attempt has been signally rebuked. And may we not now look to the future with hopes—well-grounded hopes—of permanent repose? Repose is what we want. With the principle now established, that each State and separate political community in our complicated system is to attend to its own affairs, without meddling with those of their neighbors, and that the General Government is to give its care and attention only to such matters as are committed to its charge, relating to the general welfare, peace, and harmony of the whole, what is there to darken or obscure the prospect of a great and prosperous career before us? Men on all sides speak of the Union and its preservation as objects of their desire; and some speak of its dissolution as impossible—an event that will not be allowed under any circumstances. To such let me say, that this Union can only be preserved by conforming to the laws of its existence. When these laws are violated, like all other organisms, either political or physical,

vegetable or animal, dissolution will be inevitable. The laws of this political organism—the union of these States—are well defined in the Constitution. From this springs our life as a people. If these be violated, political death must ensue. The Union can never be preserved by force, or by one section attempting to rule the other.

The principle on this sectional controversy, established in 1850, carried out in 1854, and affirmed by the people in 1856, I consider, Mr. Speaker, as worth the Union itself, much as I am devoted to it, so long as it is devoted to the objects for which it was formed. And in devotion to it, so long as these objects are aimed at, I yield to no one. To maintain its integrity—to promote its advancement, development, growth, power, and renown, in accomplishing those objects, is my most earnest wish and desire. To aid in doing this is my highest ambition. These are the impulses of that patriotism with which I am imbued; and with me—

“All thoughts, all passions, all delights,
Whatever stirs this mortal frame,
All are but ministers of love
To feed this sacred flame.”

But the constitutional rights and equality of the States must be preserved.







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